

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE:  
PETITION OF INDEX  
NEWSPAPERS LLC d/b/a  
THE STRANGER TO UNSEAL  
ELECTRONIC SURVEILLANCE  
DOCKETS, APPLICATIONS AND  
ORDERS

CASE NO. 2:17-MC-00145-RSL

**STATUS REPORT**

The United States Attorney's Office for the Western District of Washington, by and through Teal Luthy Miller, Assistant United States Attorney, files this status report as required by the Court's June 7 and August 2, 2018, orders.

1. As set out in the joint status report dated July 31, 2018, the United States Attorney's Office for the Western District of Washington and the Clerk of the Court for the Western District of Washington are working on a Memorandum of Understanding governing the procedures by which the United States Attorney's Office seeks, and the Clerk of the Court docket, orders authorizing the use of certain investigative processes so as to make more information about the use of those processes available prospectively through reports created from the PACER system.

2. Counsel for the United States Attorney's Office have met with the Clerk of the Court and members of his staff to discuss changes that would be necessary to the applications presented by the United States and the docketing procedures used by the Clerk's Office in order to reach and implement a Memorandum of Understanding that accomplishes the creation of the type of report now made available by the United States District Court for the District of Columbia. Those discussions have focused on

**STATUS REPORT - 1**

*In re: Petition of Index Newspapers*  
**2:17-MC-00145-RSL**

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1 applications and orders authorizing the use of a pen register or trap-and-trace device  
2 (PR/TT orders) under 18 U.S.C. § 3123 and orders directing the disclosure of non-content  
3 records and information under 18 U.S.C. § 2703(d) (2703(d) orders), though some  
4 consideration has been given to other types of orders as well.

5 3. Those discussions have made clear that, in order to ensure both that the  
6 appropriate information is captured on the district court PACER docket to create these  
7 reports and that sensitive information is not reflected in the caption, the United States  
8 Attorney's Office must standardize the captions used for applications in this area. The  
9 standardized captions must also satisfy the 254-character limitation for a case caption  
10 contained in the PACER system.

11 4. The United States Attorney's Office is now working internally to develop  
12 standardized case captions for applications that seek PR/TT orders and § 2703(d) orders  
13 by themselves or in combination with another type of pre-indictment process. The  
14 process for standardizing captions requires identifying each possible combination of the  
15 different types of process that the United States Attorney's Office uses and then creating  
16 forms for each covered combination.

17 5. Counsel for the United States Attorney's Office have also conducted  
18 outreach to other United States Attorney's Offices and other components of the  
19 Department of Justice to better understand variation among the districts and the best  
20 approach for moving forward.

21 6. The discussions between the United States Attorney's Office and the  
22 Clerk's Office have also made clear that the Clerk of the Court will have to make changes  
23 to its case numbering system for these types of applications and orders to separate them  
24 from other materials that will not be covered by the Memorandum of Understanding and  
25 are currently given a Grand Jury case number. The Clerk is considering how best to  
26 accomplish that task within the limits of the PACER system developed by the  
27 Administrative Office of U.S. Courts.  
28

7. Teal L. Miller, one of the principle attorneys handling this matter for the United States Attorney's Office, was out of the office for ten days in August on a previously scheduled vacation. Helen J. Brunner, the other principle attorney on the matter in the office, left for China on September 21st and will not return to the office until October 8th. In light of these absences, the need to coordinate within the office and within the Department more generally, and the complexity of the tasks, completing the work on model captions will require additional time.

8. On September 25, 2018, Teal L. Miller from the United States Attorney's Office contacted counsel for petitioners to inform them of the progress made and the tasks that remain to be completed. Miller informed them that the United States Attorney's Office hopes to have model captions completed by December 1st and to have a working draft Memorandum of Understanding with the Clerk of the Court at that same point. Counsel for the petitioners stated that Miller could represent to the Court that petitioners would not oppose an order extending until December 1, 2018, the stay previously entered by the Court in this matter.

9. By December 1, 2018, the United States Attorney's Office will provide to the Court a further status report regarding these efforts and its further discussions with the Clerk of the Court. In the interim, the United States Attorney's Office will consult with counsel for *The Stranger* to the extent it needs clarification about *The Stranger's* views on potential changes under consideration.

DATED this 28th day of September, 2018.

ANNETTE L. HAYES  
United States Attorney

s/Teal Luthy Miller  
TEAL LUTHY MILLER  
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 28, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorneys of record.

s/ Elisa G. Skinner

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